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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,652	06/19/2001	Brent D. Emerson	DSCK-1223-C1	3487

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EXAMINER

HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,652

Applicant(s)

EMERSON ET AL.

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1 and 2 is/are allowed.
- 6) ☒ Claim(s) 3-20 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the dual radius dimples as claimed in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

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Claims 3-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant recites in claim 1, "a second polymer comprising an ethylene/methacrylic acid/n-butyl acrylate copolymer" wherein claim 3 recites "the second polymer is an olefin/unsaturated carboxylic acid/n-butyl acrylate copolymer." Claim 3, implies that the second polymer can be broader than what is recited in claim 1. Being that claim 3 is unclear, it has been rejected. Claims 4-17 are also rejected being that they dependent, in some way, to claim 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadorniga et al. (USPN 5415937) in view of Shaw et al. (USPN 4142727) and Molitor (USPN 4726590) further in view of Shaw (USPN 4877252).

Regarding claim 18, Cadorniga et al. discloses a golf ball having a cover comprises a blend of a first polymer, which Cardorniga et al. refers to as a high modulus ionomer, and second polymer, made of ethylene and 20-25% by weight of methacrylic acid which Cardorniga refers to as a low modulus ionomer, comprising ethylene/methacrylic acid/n- or iso-butyl acrylate copolymer wherein the first polymer

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has a melt index of 0.5-5.0 g/10 min., a flexural modulus of 60000 to 120000 psi, and a Shore D hardness of 70 or greater, and the second polymer has a melt index of 0.5-10.0 g/10 min (See Abstract, Column 3, lines 28 through 65 and Column 3, lines 56 through 65). Cadorniga et al. does not disclose a golf ball having a dodecahedron dimple pattern on the surface of the golf ball or a core with a diameter of about 1.45 to about 1.60. Shaw et al. '727 discloses a plurality of dimples arranged in a dodecahedron pattern comprising twelve pentagons (10) subdivided by 10 great circles (15) free of dimples (3) that form 60 triangles (See Figure 3). One having ordinary skill in the art would have found it obvious to combine the dimple configuration of Shaw et al. '727 to the cover of Cadorniga et al. in order to obtain a golf ball having optimum aerodynamic properties and flight performance. Molitor discloses golf ball core having a weight of 36.4 to 40.8 g (See Table 2). One having ordinary skill in the art would have found it obvious to combine a core having the above weight, as taught by Molitor, into that of Cardorniga et al., in order to increase the rebounding characteristics of the golf ball. Shaw' 252 discloses the dimples arranged to coincide with a plurality of rows, wherein the rows further subdivide the triangles (See Figures 3 and 4). One having ordinary skill in the art would have found it obvious to modify the dimples of Cardorniga et al. in view of Shaw et al.'727 and Molitor in the manner above, as taught by Shaw '252, in order to enhance to flight distance of the golf ball.

In regards to claim 19, Shaw '252 discloses the rows comprising of a first row wherein the first row is adjacent to the apex of the triangle, a second row adjacent to the

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first row, and a third row adjacent to the second row wherein the second row is between the first and third row (See Figures 3 and 4).

In regards to claim 20, Shaw '252 discloses the dimples comprising a first dimples arranged to coincide with the first row, a second dimple arranged to coincide with the second row and third row, and a third dimple arranged to coincide with the third row (See Figure 3 and 4).

2. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadorniga et al. (USPN 5415937) in view of Shaw et al. (USPN 4142727) and Molitor (USPN 4726590).

In regards to claim 24, Cadorniga et al. discloses a golf ball having a cover comprises a blend of a first polymer, which Cardorniga et al. refers to as a high modulus ionomer, and second polymer, made of ethylene and 20-25% by weight of methacrylic acid which Cardorniga refers to as a low modulus ionomer, comprising ethylene/methacrylic acid/n- or iso-butyl acrylate copolymer wherein the first polymer has a melt index of 0.5-5.0 g/10 min., a flexural modulus of 60000 to 120000 psi, and a Shore D hardness of 70 or greater, and the second polymer has a melt index of 0.5-10.0 g/10 min (See Abstract, Column 3, lines 28 through 65 and Column 3, lines 56 through 65). Cadorniga et al. does not disclose a golf ball having a dodecahedron dimple pattern on the surface of the golf ball or a core with a diameter of about 1.45 to about 1.60. Shaw et al. '727 discloses a 360 dimples arranged in a dodecahedron (See Column 2, lines 48 through 51). One having ordinary skill in the art would have found it obvious to combine the dimple configuration of Shaw et al. '727 to the cover of

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Cadorniga et al. in order to obtain a golf ball having optimum aerodynamic properties and flight performance. Molitor discloses golf ball core having a PGA compression of 51 to 119 (See Table 2). One having ordinary skill in the art would have found it obvious to combine a core having the above PGA Compression, as taught by Molitor, into that of Cardorniga et al., in order to increase the rebounding characteristics of the golf ball.

In regards to claim 25, Shaw et al. shows 360 dimples arranged to form ten great circle paths (15) (See Figures 1-3).

3. Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cadorniga et al. (USPN 5415937) in view of Shaw et al. (USPN 4142727) and Molitor (USPN 4726590) further in view of Shaw (USPN 4877252).

In regards to claim 26, Shaw '252 discloses the dimples arranged to coincide with a plurality of rows, wherein the rows further subdivide the triangles and the rows comprising of a first row wherein the first row is adjacent to the apex of the triangle, a second row adjacent to the first row, and a third row adjacent to the second row wherein the second row is between the first and third row (See Figures 3 and 4). One having ordinary skill in the art would have found it obvious to modify the dimples of Cardorniga et al. in view of Shaw et al. '727 and Molitor in the manner above, as taught by Shaw '252, in order to enhance to flight distance of the golf ball.

In regards to claim 27, Shaw '252 discloses the dimples comprising a first dimples arranged to coincide with the first row, a second dimple arranged to coincide with the second row and third row, and a third dimple arranged to coincide with the third row (See Figure 3 and 4).

In regards to claim 28, Molitor disclose the core having a diameter of 1.545 inches (See Column 5, lines 46 through 48).

In regards to claim 29, Molitor discloses in Table 2 a core weighting 36.4 to 40.8 g.

Allowable Subject Matter

Claims 1 and 2 are allowed.

Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 3-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 6/24/2004 have been fully considered but they are not persuasive. Applicant argues in regards to claims 18 and 24 that Cardorniga does not teach ethylene/methacrylate acid copolymer in the amount of 19%. The examiner disagrees. Applicant has not set forth any criticality to have only 19%. Applicant discloses the copolymer being about 19%, but claims 19% without indicating within the specification why exactly 19% is critical (See Titanium Metals Corporation of America v. Banner 227 USPQ 773). Cardorniga teaches content in which is so close to that being claimed, one having ordinary skill in the art would have concluded that there is no

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difference in the performance of the material. For this reason, the above office action has been furnished.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is (571) 272-4411. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich, can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAH

Alvin A. Hunter, Jr.


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